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United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Utah State Office
P.O. Box 45155
Salt Lake City, UT 84145-0155
<http://www.blm.gov>

RECEIVED

OCT 30 2007

DIV. OF OIL, GAS & MINING

OCT 26 2007



IN REPLY REFER TO:

3480
UT (923)

Certified Mail—Return Receipt Requested

Mr. David Hibbs
Andalex Resources
Genwal Resources, INC.
P.O. Box 1077
Price, Utah 84501

Draining
C/015/0032

Re: Drill hole plugging plan on Federal Coal Lease UTU-68082

NOTICE OF NONCOMPLIANCE

The Bureau of Land Management (BLM) is issuing this notice of non-compliance to Andalex Resources for failure to comply with the approved exploration plan and a condition of approval dated September 28, 2007 and was received by your company on October 3, 2007.

BLM received a request to plug the drill holes that were drilled relative to the rescue effort at the Crandall Canyon mine, Federal Coal Lease UTU-68082 on September 27, 2007. BLM approved the plan with a condition on the approval that referenced 43 CFR 3484.1(a)(3) verbatim (which basically states that the holes must be plugged from top to bottom with isolation of the coal and aquifer). It is our understanding that based on BLM's witness of the hole plugging that this was not accomplished. 43 CFR 3484.2(a) states in part that prior to permanent abandonment of exploration operations, all openings will be dealt with in accordance with the approved exploration plan. In addition, 43 CFR 3487.2 (c)(1) states the operator/lessee can propose changes to the approved exploration plan but they must be submitted in writing and the authorized officer must approve the modification in writing. Andalex Resources (Genwal Resources) did not submit nor obtain an approval for a modification to this exploration plan in accordance with 43 CFR 3487.2(c)(1).

Requirements to Correct the Mining Plan Noncompliance:

- 1) Within 30 days of receipt of this letter Andalex Resources (Genwal Resources) must submit the data obtained from the drilling. This includes but not limited to the surface and underground location, size of the hole, date the drilling took place, starting elevation and ending elevation, total depth of the hole, drillers logs and/or e-logs, depth of hole if

circulation was lost, depth where water was encountered, water quality of water encountered, video tapes of the wells, type of drilling fluids used, and depth and type of the plug for each of the drill holes located on the lease.

- 2) Any other evidence that Andalex Resources may deem important to support the position that the current plugging is adequate.

Compliance: Failure to comply with this Notice of Non-Compliance will result in an immediate order to plug the drill holes in accordance with approved plan or BLM may start collection procedures on the Lease bond to contract the plugging to an outside source.

Bond: At the present time, BLM holds a lease bond in the amount of \$195,000. BLM may increase the bond at any time to cover liabilities under the Federal coal lease.

Appeal Rights:

You have 30 calendar days from the receipt of this notice to come into compliance. Following the compliance period, you then have 30 calendar days to appeal to the Board of Land Appeals, Office of the Secretary, in accordance with the regulation at 43 CFR Part 4 and the enclosed Form 1842-1. If an appeal is taken, your notice of appeal must be filed in this office within 30 calendar days following at the end of the compliance period. The appellant has the burden of showing that the decision appealed from is in error.

If you wish to file a petition pursuant to regulation 43 CFR 4.21 (58 FR 4939, January 19, 1993) for a stay of the effectiveness of this decision during the time that you appeal is being reviewed by the Board, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the notice of appeal and the petition for a stay must also be submitted to the Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards;

- (1) The relative harm to the parties if a stay is granted or denied;
- (2) The likelihood of the appellant's success on the merits;
- (3) The likelihood of the immediate and irreparable harm if the stay is not granted, and;
- (4) Whether the public interest favors granting the stay.

If you have any questions, feel free to contact Mr. Stan Perkes (801) 539-4036.

James F. Kohler

JAMES F KOHLER

Chief, Solid Minerals Branch

Encl. Form 1842-1

cc: PFO

Utah Division of Oil, Gas, and Mining (Attn. Daron Haddock), 1594 West North
Temple, Suite 1210, Box 145801, Salt Lake City, UT 84114-5801

Files - UTU-68082

Chron File

Non07 26 2006 plugging SP-SA-10-26-07

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

INFORMATION ON TAKING APPEALS TO THE INTERIOR BOARD OF LAND APPEALS

DO NOT APPEAL UNLESS

1. This decision is adverse to you,
AND
2. You believe it is incorrect

IF YOU APPEAL, THE FOLLOWING PROCEDURES MUST BE FOLLOWED

1. NOTICE OF
APPEAL.....

A person who wishes to appeal to the Interior Board of Land Appeals must file in the office of the officer who made the decision (not the Interior Board of Land Appeals) a notice that he wishes to appeal. A person served with the decision being appealed must transmit the *Notice of Appeal* in time for it to be filed in the office where it is required to be filed within 30 days after the date of service. If a decision is published in the FEDERAL REGISTER, a person not served with the decision must transmit a *Notice of Appeal* in time for it to be filed within 30 days after the date of publication (43 CFR 4.411 and 4.413).

2. WHERE TO FILE

NOTICE OF APPEAL..... U.S. Department of Interior, Bureau of Land Management, Utah State Office
440 West 200 South, Suite 500, Salt Lake City, Utah 84101

WITH COPY TO
SOLICITOR... Regional Solicitor, Salt Lake City Intermountain Region, U.S. Department of Interior
125 S. State St., Room 6201, Salt Lake City, Utah 84131

3. STATEMENT OF REASONS

Within 30 days after filing the *Notice of Appeal*, file a complete statement of the reasons why you are appealing. This must be filed with the United States Department of the Interior, Office of Hearings and Appeals, Interior Board of Land Appeals, 801 N. Quincy Street, MS 300-QC, Arlington, Virginia 22203. If you fully stated your reasons for appealing when filing the *Notice of Appeal*, no additional statement is necessary (43 CFR 4.412 and 4.413).

WITH COPY TO
SOLICITOR..... Regional Solicitor, Salt Lake City Intermountain Region, U.S. Department of Interior
125 S. State St., Room 6201, Salt Lake City, Utah 84131

4. ADVERSE PARTIES.....

Within 15 days after each document is filed, each adverse party named in the decision and the Regional Solicitor or Field Solicitor having jurisdiction over the State in which the appeal arose must be served with a copy of: (a) the *Notice of Appeal*, (b) the Statement of Reasons, and (c) any other documents filed (43 CFR 4.413).

5. PROOF OF SERVICE.....

Within 15 days after any document is served on an adverse party, file proof of that service with the United States Department of the Interior, Office of Hearings and Appeals, Interior Board of Land Appeals, 801 N. Quincy Street, MS 300-QC, Arlington, Virginia 22203. This may consist of a certified or registered mail "Return Receipt Card" signed by the adverse party (43 CFR 4.401(c)).

6. REQUEST FOR STAY.....

Except where program-specific regulations place this decision in full force and effect or provide for an automatic stay, the decision becomes effective upon the expiration of the time allowed for filing an appeal unless a petition for a stay is timely filed together with a *Notice of Appeal* (43 CFR 4.21). If you wish to file a petition for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the Interior Board of Land Appeals, the petition for a stay must accompany your *Notice of Appeal* (43 CFR 4.21 or 43 CFR 2801.10 or 43 CFR 2881.10). A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the *Notice of Appeal* and Petition for a Stay must also be submitted to each party named in this decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

Standards for Obtaining a Stay. Except as otherwise provided by law or other pertinent regulations, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards: (1) the relative harm to the parties if the stay is granted or denied, (2) the likelihood of the appellant's success on the merits, (3) the likelihood of immediate and irreparable harm if the stay is not granted, and (4) whether the public interest favors granting the stay.

Unless these procedures are followed, your appeal will be subject to dismissal (43 CFR 4.402). Be certain that all communications are identified by serial number of the case being appealed.

NOTE: A document is not filed until it is actually received in the proper office (43 CFR 4.401(a)). See 43 CFR Part 4, Subpart B for general rules relating to procedures and practice involving appeals.

43 CFR SUBPART 1821—GENERAL INFORMATION

Sec. 1821.10 Where are BLM offices located? (a) In addition to the Headquarters Office in Washington, D.C. and seven national level support and service centers, BLM operates 12 State Offices each having several subsidiary offices called Field Offices. The addresses of the State Offices can be found in the most recent edition of 43 CFR 1821.10. The State Office geographical areas of jurisdiction are as follows:

STATE OFFICES AND AREAS OF JURISDICTION:

Alaska State Office ----- Alaska
Arizona State Office ----- Arizona
California State Office ----- California
Colorado State Office ----- Colorado
Eastern States Office ----- Arkansas, Iowa, Louisiana, Minnesota, Missouri
and, all States east of the Mississippi River
Idaho State Office ----- Idaho
Montana State Office ----- Montana, North Dakota and South Dakota
Nevada State Office ----- Nevada
New Mexico State Office ---- New Mexico, Kansas, Oklahoma and Texas
Oregon State Office ----- Oregon and Washington
Utah State Office ----- Utah
Wyoming State Office ----- Wyoming and Nebraska

(b) A list of the names, addresses, and geographical areas of jurisdiction of all Field Offices of the Bureau of Land Management can be obtained at the above addresses or any office of the Bureau of Land Management, including the Washington Office, Bureau of Land Management, 1849 C Street, NW, Washington, DC 20240.

(Form 1842-1, September 2006)